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ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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October 14, 2003

The Honorable Duncan Hunter  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
2120 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Warner  
Chairman  
Committee on Armed Services  
U.S. Senate  
228 Russell Senate Office Building  
Washington, DC 20510

The Honorable Ike Skelton  
Ranking Member  
Committee on Armed Services  
U.S. House of Representatives  
2340 Rayburn House Office Building  
Washington, DC 20515

The Honorable Carl Levin  
Ranking Member  
Committee on Armed Services  
U.S. Senate  
228 Russell Senate Office Building  
Washington, DC 20510

Dear Chairmen and Ranking Members:

We are writing in reference to reports that the conferees on H.R. 1588, the "National Defense Authorization Act for Fiscal Year 2004," may be asked to include in the conference report an amendment to a trademark law that violates our international obligations. Because such a provision would fall in the trademark law jurisdiction of the House and Senate Committees on the Judiciary under House Rule X(1)(k)(13) and Senate Rule XXV(1)(1)(15), respectively, we urge that you reject any proposal should it be made.

As you may be aware, section 211 of Public Law 105-277 prohibits Federal courts from recognizing and enforcing rights in any trademark that is the same as or "similar to" a trademark that was used "in connection with" a business that was confiscated in Cuba. The World Trade Organization has held that parts of the law violate our international obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPs") because it allows U.S. nationals, but not foreign nationals, to acquire and enforce rights in such Cuban-origin trademarks.

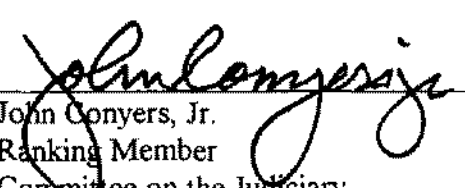
There are reports that a proposal that purports to bring our laws into compliance with TRIPs is being suggested for inclusion into the H.R. 1588 conference report without being vetted

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in the Judiciary Committees. It is important to note that the law that would be amended, section 211, is one that did not go through the committee process and, instead, passed into law as an appropriations rider. It would be unfortunate if the purported "fix" language also was not properly reviewed in the Judiciary Committees and also was held in violation of TRIPs. For these reasons, we urge you to reject any such proposal should it come before you.

We would appreciate your consideration of our request. If you have any questions or concerns, please feel free to contact us or our staffs.

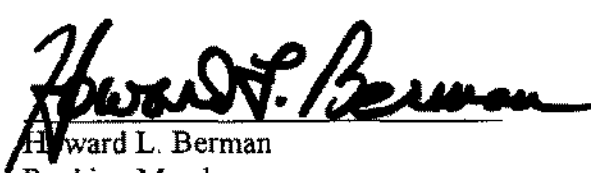
Sincerely,




John Conyers, Jr.  
Ranking Member  
Committee on the Judiciary



Jeff Flake  
Member  
Committee on the Judiciary



Howard L. Berman  
Ranking Member  
Subcommittee on Courts, the Internet,  
and Intellectual Property



William D. Delahunt  
Member  
Committee on the Judiciary

cc: The Honorable F. James Sensenbrenner, Jr.  
Chairman  
U.S. House Committee on the Judiciary

The Honorable Lamar Smith  
Chairman  
U.S. House Subcomm. on Courts, the Internet, and Intellectual Property